IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 36456 of 2007(M)

AGAINST THE ORDER DATED / / IN EP 74/2006 IN OS.28/2004 of SUB COURT, HOSDRUG

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PETITIONERS:

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1. **M/S. PLUS MARK, ATHINHAL, KANHANGAD REPRESENTED BY ITS MANAGING PARTNER, P.M. KUNJABDULLA.**

2. **P.M. KUNHABDULLA, S/O. MOIDEEN HAJI, POODAMKALLU, KALLAR VILLAGE, HOSDURG TALUK, RAJAPURAM POST.**

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENTS:

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1. **THE FEDERAL BANK LTD., ALWAYE REPRESENTED BY ITS MANAGER,KANHANGAD BRANCH BALLA VILLAGE OF HOSDURG TALUK.**

2. **M. SHAMSUDEEN, S/O. MOHAMMED, BUSINESSMAN, RESIDING AT CHERKALA,CHENGALA VILLAGE KASARGOD TALUK.**

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.36456 OF 2007

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Dated this the 10th day of December 2007

JUDGMENT

This writ petition is preferred against the order in E.P.No.74 of 2006 in O.S.No.28/2004 of the Sub Court, Hosdurg whereby a request is made to quash the said order. The learned Sub Judge has fixed the upset price at Rs.20 lakhs and directed the sale of the property on 12.12.2007. It is seen that the decree debt comes to more than Rs.10 lakhs. Learned counsel for the petitioners submits before me and had also produced documents to show that the person in charge of the company is suffering from serious mental depression and he has also produced some documents before this Court. It is also submitted that if the sale takes into effect it will deteriorate his condition and therefore some indulgence may be shown. Learned counsel also submits that some steps will be taken to discharge the entire decree amount within six months, if instalment facilities are provided.

Considering the facts and circumstances and the representations made, I am inclined to grant some time and the writ petition is disposed of as follows: The petitioners are directed to make payment in 6 monthly

instalments. The first instalment, i.e. an amount of Rs.2 lakhs be paid on 10.1.2008 and the remaining amounts in 5 equal monthly instalments commencing from 10.2.2008 onwards. If the petitioners make default of the first instalment or default of two other consecutive instalments thereafter it shall forfeit the privilege granted and the decree holder can proceed to sell the property in execution of the decree. In the light of this, the court below is directed to defer the sale posted to 12.12.2007.

M.N.KRISHNAN, JUDGE

Cdp/-